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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/072,531	02/08/2002	Kevin Gage	3464-031	3398
23440 7590 04/01/2008 GOTTLIEB RACKMAN & REISMAN PC 270 MADISON AVENUE 8TH FLOOR NEW YORK, NY 10016-0601				
EXAMINER				
BILGRAMI, ASGHAR H				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/072,531

Applicant(s)

GAGE, KEVIN

Examiner

ASGHAR BILGRAMI

Art Unit

2143

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,6,7,11,14-18 and 25-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,6,7,11,14-18 and 25-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/808)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
2. Claim 11 recites the limitation "said second output signal" in the last line of claim 11. There is insufficient antecedent basis for this limitation in the claim.
3. Claim 25 recites the limitation "said second processed audio signal" in the second line of claim 25. There is insufficient antecedent basis for this limitation in the claim.
4. Claim 26 recites the limitation "said second format includes a stereo..." in the second line of claim 26. There is insufficient antecedent basis for this limitation in the claim.

Specification

5. Claim 31 objected to because of the following informalities: claim 31 depends on a cancelled claim 3. Appropriate correction is required.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1, 6, 7, 17, 25-31, 35, 36, 38 rejected under 35 U.S.C. 102 (e) as being anticipated by Martin et al (U.S. 7,174,512 B2).

8. As per claims 1 & 17 Martin disclosed an apparatus for processing multimedia programs that are not playable on a digital audio player, said programs being composed of composite signals including an audio program component and a video component comprising: an input port used to receive a composite signal; an extractor coupled to said input port and adapted to selectively extract said audio component from said composite signal without extracting said video signal (col.7, lines 56-67 & col.8, line.1); a processor that processes said audio component to generate a processed audio signal in a format that can be received and played by the digital audio player; and an output port for outputting said processed audio signal (col.5, lines 32-67 & col.6, lines 1-6).

Art Unit: 2154

9. As per claim 6 Martin disclosed the apparatus of claim 1 wherein said audio component includes a multichannel audio signal and wherein said processed signal includes a stereo signal (col.6, lines 7-24).

10. As per claims 7, 26, 27, 35 & 36 Martin disclosed the apparatus of claim 6 wherein said processor includes a folder circuit adapted to fold said multichannel audio signal to generate said stereo audio signal (col.6, lines 7-24).

11. As per claim 18 Martin disclosed the method of claim 17 wherein said multimedia program is received electronically from a distribution network, further comprising storing said multimedia program (col.5, lines 32-67).

12. As per claim 25 Martin disclosed the method of claim 17 wherein said multimedia program is compressed format and said second processed audio signal is an uncompressed format (col.5, lines 32-67 & col.6, lines 1-6).

1. As per claim 29 Martin disclosed the apparatus of claim 1 wherein said input port is adapted to receive a broadband multimedia program (col.5, lines 32-67).

2. As per claim 30 Martin disclosed the apparatus of claim 1 wherein said input port includes a media reader (col.5, lines 32-67).

Art Unit: 2154

3. As per claim 31 Martin disclosed the apparatus of claim 3 wherein said input port includes a DVD reader (col.19, lines 40-45).

4. As per claim 38 Martin disclosed the method of claim 17 further comprising saving said processed output signal before it is output to said digital audio device (col.3, lines 19-44).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 16, 32 & 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Martin (U.S. 7,174,512 b2) and Inoue et al (U.S. 6,580,462 B2).

8. As per claim 32 Martin disclosed the apparatus of claim 1. However Marin did not explicitly disclose wherein said processed signal is a compressed signal in one of an

Art Unit: 2154

MPEG and an ATRAC standard. In the same filed of endeavor Inoue disclosed wherein said processed signal is a compressed signal in one of an MPEG and an ATRAC standard (col.15, lines 17-39).

It would have been obvious to one in the ordinary skill in the art at the time the invention was made to have incorporated the compressed signal as ATRAC standard as disclosed by Inoue in the disclosed apparatus of claim 1 as anticipated by Martin in order to make the apparatus have an additional capability to process an additional signal standard resulting in a more versatile processing apparatus.

9. As per claim 37 Martin disclosed the apparatus of claim 36. However Martin did not explicitly disclose wherein said processed audio is compressed one of an MPEG and an ATRAC protocol. In the same filed of endeavor Inoue disclosed wherein said processed audio is compressed one of an MPEG and an ATRAC protocol (col.15, lines 17-39).

It would have been obvious to one in the ordinary skill in the art at the time the invention was made to have incorporated the audio as compressed ATRAC protocol as disclosed by Inoue in the disclosed apparatus of claim 36 as anticipated by Martin in order to make the apparatus have an additional capability to process an additional signal standard resulting in a more versatile processing apparatus.

10. As per claim 16 Martin disclosed the apparatus of claim 14. However Martin did not explicitly disclose wherein said encoder is adapted to encode said folded audio

Art Unit: 2154

signal using an ATRAC protocol. In the same filed of endeavor Inoue disclosed wherein said encoder is adapted to encode said folded audio signal using an ATRAC protocol (col.15, lines 17-39).

It would have been obvious to one in the ordinary skill in the art at the time the invention was made to have incorporated the encoder being adapted to encode and fold audio signal using ATRAC protocol as disclosed by Inoue in the disclosed apparatus of claim 14 as anticipated by Martin in order to make the apparatus have an additional capability to process an additional signal standard resulting in a more versatile processing apparatus.

Claim Rejections - 35 USC § 102

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

12. Claims 11, 14-16, 28, 33 & 34 rejected under 35 U.S.C. 102(e) as being anticipated by Martin et al (U.S. 7,174,512 B2).

1. As per claims 11 & 28 Inoue disclosed an apparatus for generating an audio output in a format that can be played by a digital audio player from composite signals

Art Unit: 2154

that are incompatible with the audio player, said apparatus comprising: a broadband input port adapted to receive a multimedia program including a composite signal with audio and video component; a data storage adapted to store said multimedia program; a controller adapted to receive selections from a user and to generate commands responsive to said selections (col.3, lines 45-63); an extractor responsive to said commands and adapted to receive said multimedia program and to selectively extract said audio component without said video component from said multimedia program (col.17, lines 56-67 & col.8, line1); a processor processing said audio component to generate a digital audio signal in a format that is playable by the digital audio player and an output port outputting said second output signal (Col.17, lines 56-67 & col.8, line 1).

2. As per claims 14 & 34 Inoue-Kostreski disclosed the apparatus of claim 11 wherein audio signal is a multichannel audio signal; and wherein said processor includes a folder circuit adapted to fold said multichannel audio signal (col.6, lines 7-24), and an encoder adapted to encode the folded audio signal using a standard compression protocol (col.10, lines 19-44).

3. As per claim 15 and 33 Inoue-Kostreski disclosed the apparatus of claim 11 wherein said multimedia program is compressed using an MPEG protocol and wherein said extractor is adapted to use said MPEG protocol to extract said audio component. (col.5, lines 32-67 & col.6, lines 1-6).

Response to Arguments

Applicant's arguments with respect to claims 1, 6, 7, 11, 14-18, 25-38 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

13. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **ASGHAR BILGRAMI** whose telephone number is (571)272-3907. The examiner can normally be reached on 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Flynn can be reached on 571-272-1915. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AB

/Nathan J. Flynn/
Supervisory Patent Examiner, Art Unit 2154